

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

IZZO GOLF INC.,
f/k/a Dancorp Investors, Inc.,

Plaintiff,

Case No. 02-CV-6012CJS-MWP

v.

KING PAR GOLF INCORPORATED
D/B/A KNIGHT GOLF COMPANY,

Defendant.

**DEFENDANT'S NOTICE OF MOTION TO STRIKE
UNTIMELY REQUESTS FOR ADMISSION**

PLEASE TAKE NOTICE that Defendant King Par Golf Incorporated d/b/a Knight Golf Company, having been served by Plaintiff on March 19, 2010 with twenty-six (26) new Requests for Admission, associated with over one hundred (100) pages of documents, and discovery in this case having been closed since at least 2005, will move the Court at a time and date to be set by the Court for an Order pursuant to Fed. R. Civ. P. 36(a)(6) to strike the Requests for Admission as untimely, and award costs associated with the preparation and filing of this Motion and the accompanying Brief to Defendant. Defendant's counsel has spoken with Plaintiff's counsel regarding the untimeliness of these submissions and has requested that they be voluntarily withdrawn, but Plaintiff's counsel has refused this request, thereby necessitating the present Motion.

PLEASE TAKE FURTHER NOTICE that Defendant intends to file reply papers; therefore, pursuant to the Local Rules of Civil Procedure 7.1(c), any papers filed in opposition to this motion must be served at least fourteen (14) business days prior to the return date.

DATED: April 14, 2010

s/ Andrew P. Zappia

Andrew P. Zappia

NIXON PEABODY LLP

1100 Clinton Square

Rochester, NY 14604

Telephone: (585) 263-1000

E-mail: azappia@nixonpeabody.com

Marshall G. MacFarlane (P27296)

YOUNG BASILE

301 E. Liberty, Suite 680

Ann Arbor, Michigan 48104

Telephone: (734) 662-0270

E-mail: macfarlane@youngbasile.com

Attorneys for Defendant